

Approved: 4-4-96  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 27, 1996 in Room 254-E- of the Capitol.

All members were present except:

Senator Hardenburger, Excused  
Senator Lawrence, Excused  
Senator Phil Martin, Excused  
Senator Doug Walker, Excused

Committee staff present: Raney Gilliland, Legislative Research Department  
Mary Torrence, Revisor of Statutes  
Ardan Ensley, Revisor of Statutes  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Derenda J. Mitchell, Legislative Counsel to the Governor  
Donald P. Schnacke, Kansas Independent Oil and Gas Association  
David Bleakley, President, Eastern Kansas Oil and Gas Association and Director of  
Acquisitions & Land Management, Colt Energy, Inc.  
Julie Hein, Mesa  
Clark Duffy, American Petroleum Institute

Others attending: See attached list

**SB 755 - concerning oil and gas; providing for payment of costs of remediation of certain contamination sites and costs of plugging, replugging and repairing certain wells and remediation of pollution from such wells**

Derenda J. Mitchell, Legislative Counsel to the Governor, presented testimony concerning **SB 755** dealing with funding remediation and plugging of abandoned oil or gas wells which threaten water supplies, environment, wildlife, health and safety of citizens (**Attachment 1**). The Governor's Water Quality Initiative is outlined in the written testimony. A proposed amendment which would impose a surcharge or assessment to the operator's annual fee was also outlined.

Ms. Mitchell suggested the legislation be crafted so that there are no gaps in definitions and also suggested deletion of S.B. 76 passed in the 1995 Legislative Session which prohibited spending money on the 17 remediation sites.

Donald P. Schnacke, Kansas Independent Oil and Gas Association, presented testimony to the Committee voicing support for **SB 755** stating the legislation has been needed for a long period of time, that more KCC expenses are devoted to environmental activities and referred to proposals made to the 1995 legislature suggesting the use of federal mineral royalty money in addition to general fund and water plan money for remediation purposes (**Attachment 2**).

Mr. Schnacke noted severance tax funds are paid into the general fund, therefore his organization supported the concept that increased plugging and remediation effort by the KCC be funded by a mix of general fund water plan funds, federal mineral royalties, and an increase in the KCC Conservation Fee Fund to fund this proposed bill. In written testimony Mr. Schnacke raised several areas in the bill for further consideration

David Bleakley, Eastern Kansas Oil and Gas Association, presented testimony stating support of **SB 755** and made amendment recommendations outlined in **Attachment 3**.

Mr. Bleakley noted 75 years of oil and gas well drilling and abandonment without rules and regulations has provided a legacy of problems which need to be addressed in a timely manner.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 27, 1996.

Julie Hein, Mesa, appeared expressing support for the efforts and involvement of all interested parties. Ms. Hein expressed concern with the conservation fee fund and oil and gas rates set. Ms. Hein stated full support for the 50/50 industry split. Disappointment was expressed that the financial responsibility and financial security for wells currently being operated and new ones being drilled has not been addressed but noted the task force would undoubtedly deal with that issue.

Strong support was given to the issue of putting financial responsibility on current operators to prevent current or additional problems to arise in the future.

Clark Duffy, Kansas Petroleum Council, presented testimony noting this bill would provide \$1.6 million in new funds to address the current problem of abandoned oil and gas wells but felt it will not help unless current problems are stopped (Attachment 4). In oral testimony Mr. Duffy stated the opinion that **SB 755** does not address the problem of 450 new wells each year for which the KCC takes responsibility noting each year there would be a need for \$1.5 million for that year's wells coming under KCC direction when the bill only raises \$1.6 million. However, he noted it was a step in the right direction. He noted the Kansas Petroleum Council reluctantly supported the bill as written including the amendment by the Governor's office as written. He added that should other amendments be offered the Kansas Petroleum Council would have to reconsider its position on this proposed legislation.

Discussion touched on the original thrust of the bill which was that the new fee would only apply for wells that were abandoned on July 1, 1996 or thereafter, not utilized for previously abandoned wells and whether a gap existed in the bill. Ms. Mitchell expressed a need for consistency when approaching the problem. As envisioned the operator's fee would be an additional amount to the extent necessary to plug. It would be based on the previous year's experience in abandoned wells divided between the number of operators during that period of time. A member questioned whether the fee would be the same for all operators with Ms. Mitchell stating yes. The member noted this appeared to be returning to previous to inequity. Ms. Mitchell stated a need to step up enforcement of problem and the hope was that there would be fewer abandoned wells culminating in a bearable amount.

Further discussion attempted to clarify the fact that the figure of 450 abandoned wells each year were not necessarily new ones but included old ones just listed or discovered. Any projections as to what will be abandoned per year after July 1, 1996 and whether the money we are looking at going to match those numbers, thus the governor's recommendation was based on needs.

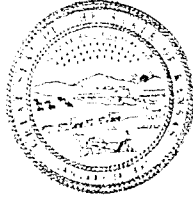
The meeting recessed.

The next meeting will be held when it can be scheduled.



# STATE OF KANSAS

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OFFICE OF THE GOVERNOR

**TESTIMONY**  
presented to  
**SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**  
**MARCH 27, 1996**  
by  
**Derenda J. Mitchell**  
**Legislative Counsel to the Governor**

Governor Bill Graves thanks Chairman Sallee, the Senators on this committee, and the legislative staff for their time and attention to the topic of **remediation and plugging of abandoned oil or gas wells**. Water is a precious natural resource to Kansans. Your commitment to passage of legislation to address the threat to our water quality is a commitment to our environment, our wildlife, and most importantly to the health and safety of our citizens.

The administration has discussed how best to address these concerns with legislators, KCC staff, and industry. The Governor is personally grateful to everyone who has provided input to our office. With continued cooperation, and is confident we can accomplish passage of meaningful legislation. We have attempted to approach this problem without playing the blame game. Nevertheless, to the extent responsible parties can be identified, they should be forced to pay for any pollution.

When the '96 Session began, Governor Graves announced his **Water Quality Initiative**. The Initiative includes remediation and well plugging. With your support, we hope to address the following issues to protect our Kansas water quality:

1. the 17 remediation sites transferred from KDHE to the KCC last session; 92 additional sites identified by the KCC;
2. plugging of abandoned oil or gas wells with no potentially responsible parties which are actively polluting or are a serious threat to health and safety;
3. current and future operations so that abandonment of oil or gas wells is discouraged and each party legally responsible for plugging wells is encouraged to do so.

With regard to number three, we would recommend an amendment to the language proposed that would replace the footage drilling fee. The proposed amendment would impose a

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surcharge or assessment to the operator's annual fee. Any additional assessment should not be effective until the beginning of FY 1998, and should not be assessed unless the previous year's experience indicates a need for the assessment. In this way, the current operators participate and are encouraged to self-police. I will leave it to the technicians to put the concept into statutory wording if the committee is interested.

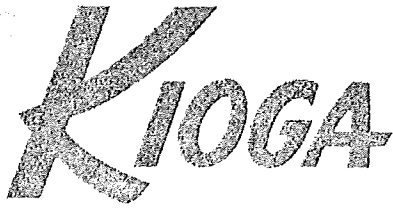
Before closing, I would like to highlight a few thoughts I had about the proposed bill language. First, legislators will want to consider crafting legislation so that there is no gap in definitions. For example, wells abandoned **before** a date certain are defined in new section 1, subsection (3) on page 1. The definition of what is covered by the drilling fee or the operator's fee should then address abandoned wells **after** that same date certain.

Second, the legislature may need to delete S.B. 76's prohibition on spending money on the 17 remediation sites.

Third, we would suggest the bill be amended to require reporting by the KCC to the Energy and Natural Resources Committees and to the Governor on the status of KCC efforts in remediation and plugging.

Again, our Kansas water is threatened, and we ask for your assistance in its protection. Thank you for your consideration.

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## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

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### SENATE ENERGY & NATURAL RESOURCES COMMITTEE

March 27, 1996

*Testimony of Donald P. Schnacke, Executive Vice President  
Kansas Independent Oil & Gas Association*

I am Donald P. Schnacke, Executive Vice President of the Kansas Independent Oil and Gas Association, a 59-year-old association representing independent oil and gas producers, operators, and the related support industry throughout Kansas. We are appearing here today in favor of the passage of SB \_\_\_\_\_.

The mystery of this legislation is why has it been so slow coming! I've represented KIOGA 22 years and helped organize in 1982 the KCC Oil and Gas Advisory Committee composed of 10 persons knowledgeable about environmental issues facing the oil and gas industry. It is composed of representatives of groundwater management districts, the KCC, KDHE, the Kansas Geological Survey, the Kansas Water Office and the Division of Water Resources. Not until last summer have we focused on the thousands of unplugged wells and the increased need for remediation.

For two years, we have testified in various hearings advocating the use of non-industry funds to address the increasing costs of the KCC which is being asked to assume more and more environmental activities. The Conservation Fee Fund was set up to be used exclusively for regulation of the oil and gas industry. Since 1986 when the legislature shifted environmental activity from KDHE to the KCC, we have noted that more and more KCC expenses are devoted to environmental activities, including MIT testing (a federally-mandated testing program) and remediation and plugging of wells. When the 1995 legislature shifted 17 remediation sites from KDHE to the KCC, we asked that general fund and water plan money be used to support the KCC. During the interim studies of Proposals No. 27 and No. 49 this past summer, we raised the possibility of directing federal mineral royalty money to the KCC in addition to general fund and water plan money.

When the industry mentions general fund money, we like to believe we are really talking about severance tax money that goes to the general fund. Currently, \$93 million goes to the general fund annually. Since 1983 when the severance tax was imposed and doubled the tax burden on the production of oil and gas in Kansas, over \$1 billion have been collected from the severance tax and put into the general fund. Therefore, we support the concept that the increased plugging and remediation effort by the KCC be funded by a mix of general fund water plan funds, federal mineral royalties, and an increase in the KCC Conservation Fee Fund, all totaling \$1.6 million annually when added together as proposed in this bill.

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There are some who want the legislature to dictate how the KCC-CFF will be divided between gas and oil producers. For many years, oil was king in Kansas when it came to supporting the KCC. Natural gas was hardly considered. Low prices and a low profile gas industry prevailed. Oil supported the KCC for years, Oil is now on a sharp decline. We think the State Corporation Commission, as it always has, can weigh the issue of how to assess the two factions to equitably raise the money for this effort. We recommend that the legislature not dictate to the KCC how to assess the industry for the money to be used under this bill. We believe the language in the bill is appropriate.

We support the language in the bill concerning establishment of a fund to be administered by the KCC to assure that future wells that are drilled will be plugged if they become abandoned and wards of the State of Kansas. Keep in mind, wells drilled in 1996 forward are nothing like those that were long ago abandoned and will be addressed in this legislation. Through strong regulatory practices and discipline by the KCC and its staff, we would not expect more than 2% of new wells to become a burden due to bankruptcy, death or other like events. What is being proposed in this bill, a two cents per foot drilling fee, is workable and along the lines we suggested to those who were developing this legislation to address the plugging of future wells.

There are those in our industry who want all existing operators to have an additional financial responsibility to plug wells and remediate well sites. A legal responsibility exists today. Strong enforcement of the KCC rules will provide most of what is desired. To insist that each operator, even when they intend or will plug a well, to provide bonding or some other financial commitment up front, is impractical and impossible for the Kansas industry to provide. We welcome the formation of a Governor's Task Force to study this issue this summer as provided in the bill, but we want to convey to you that what is contained in this bill is all that our industry can do to address this issue at this time. Anymore, particularly concerning the financial responsibility for existing wells and sites, will stifle the will among many operators to continue to do business in Kansas with devastating results that will transfer massive responsibility to the State of Kansas.

We have concern about terms used in two places in the bill:

- 1) P. 4 (2) (A) - when the KCC "shall remediate". We think that is too broad of mandated authority and should be tempered to include "shall remediate if economically feasible".
- 2) P. 6 New Sec. 8 - The terms used seem to imply there will be a financial responsibility requirement finding by the task force. We envision the task force exploring the details of what this bill will accomplish and discover why financial responsibility is not needed nor feasible to be enacted.

In conclusion, we are pleased to have worked with the Administration, the legislature and the legislative leadership in developing this bill which represents a responsible initiative to plug abandoned wells and remediate production sites. We therefore recommend that you pass this bill.

Donald P. Schnacke

**SENATE ENERGY & NATURAL RESOURCES COMMITTEE**

**March 27, 1996**

**RE: SB \_\_\_\_\_ - ABANDONED OIL & GAS WELL PLUGGING AND REMEDIATION FUND**

Testimony of David Bleakley - President  
Eastern Kansas Oil and Gas Association  
&  
Director of Acquisitions & Land Management  
Colt Energy, Inc.

The Eastern Kansas Oil and Gas Association (EKOGA) strongly supports SB \_\_\_\_\_ with the following amendment.

Our association represents and supports eastern Kansas oil and gas producers, service companies, royalty owners and associated businesses along with the overall welfare of the Kansas oil and gas industry in this state.

In testimony supporting SB \_\_\_\_\_, EKOGA feels a short history of Oil and Gas well drilling in the State of Kansas helps one understand what this Bill is addressing. The first well drilled in Kansas was drilled in 1860 approximately 30 miles south of Kansas City near Paola, Kansas in Miami County. Oil and Gas rules and regulations began in 1935. The drilling increased in surrounding counties and throughout Eastern Kansas with primary oil production peaking in Eastern Kansas in 1918 at 45.5 million barrels/yr. and state wide in 1956 at over 124 million barrels/yr. while current production for 1995 is at 47 million barrels/yr. Eastern Kansas is defined as the eastern 1/3 of the state or 43 counties east of Wichita, Kansas. Oil in Eastern Kansas was found by several independent producers which stimulated the interest, involvement and development of Eastern Kansas oil and gas by hundreds of other independents and the major oil and gas companies such as; Sohio Petro. Co., Cities Service Oil Co., Skelly Oil Co., Sinclair Oil & Gas Co., Gulf Oil Corp., Union Gas Systems, Inc., Phillips Petro. Co., and various other smaller companies and subsidiaries bought and owned by major oil companies.

Oil was discovered in the central counties in 1923 while gas was first discovered in the central counties in 1888. Oil was discovered in the western counties in 1951 while gas was discovered in the western counties, in particular, the Hugoton field in 1922.

To summarize the above information, oil was first found in Kansas in the east and developed and produced by independents and majors alike until the economic limits were reached as set by each individual company's overhead and then sold or plugged out, thus starting the trickling down of oil and gas properties from larger independents and major oil companies to medium sized and then smaller independent oil companies. This trickle down has been going on for many, many years and will continue until the economic limit is reached in every field in the state.

Drilling, plugging and abandoning of oil and gas wells and operating sites started in 1860 and continued unabated until rules and regulations were started in 1935 leaving 75 years worth of drilling, plugging and abandoning of wells and operating sites under no rules and regulations. Then, from 1935 through the 40's 50's and 60's, in particular, rules and regulations have changed numerous times with many wells being drilled under one rule only to have it change at a later date. Therefore, the current oil and gas producers, cannot and should not bear the entire burden of correcting these historic problems by themselves. That is why we applaud the Governor, his staff, the KCC and their staff, the legislators and their staffs, and the oil and gas industry for all working together to address a problem that has needed this kind of group effort and monetary involvement from areas other than

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the industry alone for many years. The state, the counties and its citizens have benefited from the money generated from these natural resources to the general fund, the personal property taxes, and the jobs over the last 136 years oil and gas has been produced in this state.

There is only one item EKOGA feels should be amended or modified. Because EKOGA originally explored and proposed the drilling intent fee, we have had time to think about the mechanics of such a fee as a method to insure the plugging of future wells drilled across the State. Therefore, because this future well plugging fund is targeted on new producing oil and gas wells drilled and put into production with the possibility of later abandonment of a certain percent of these wells, Section 4. should be amended appropriately:

- 1.) We recommend no fee be charged on the drilling intent.
- 2.) We recommend the \$.02 per foot drilled, be calculated on the total depth drilled and that amount be remitted by the operator/producer with the ACO-1 well completion form.

RATIONALE: Any dryholes drilled as a new oil or gas well will be plugged when they are drilled so there is no need to set aside funds for future plugging of those wells because they will already be plugged. By remitting a check with the ACO-1 well completion form, there won't have to be any additional adjustments made for wells drilled deeper or shallower from the drilling intent estimated depth because the fee will be paid with the accurate well completion depth.

This will be easier for the state to manage, more accurate reporting and it hits the target of future abandoned wells not new wells drilled, dryholed and plugged.

Therefore, Mr. Chairman and members of this Committee, we urge you to vote in favor of SB \_\_\_\_\_ with the amendment as recommended.

Thank you for your time.

David P. Bleakley

**TESTIMONY  
BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE  
REGARDING ABANDONED WELLS AND CONTAMINATION SITES**

**BY  
CLARK DUFFY  
KANSAS PETROLEUM COUNCIL  
WEDNESDAY, MARCH 27, 1996**

My name is Clark Duffy, I am the Associate Director of the Kansas Petroleum Council. The Kansas Petroleum Council has been concerned about abandoned oil and gas wells and contamination sites since the IOGCC highlighted this problem in its review of the Kansas regulatory program in 1993.

I would like to commend Governor Graves and the leadership in the House and the Senate for recognizing the importance of this problem and for their efforts to bring the industry together in an effort to address this problem. I especially want to thank Derenda Mitchell for her hard work on this issue.

This bill would provide approximately \$1.6 million of new funds to supplement the existing \$500,000 of industry money to deal with this historic problem. While the Kansas Petroleum Council supports this effort to address these historic problems, we do not believe it will help unless the current problems are stopped.

The legislative interim committee report on Proposition 49 indicates there is an ongoing problem. The Kansas Petroleum Council believes that it is as important to stop the current problem as it is to clean up these historic problems.

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This bill does not stop the current problem. The current problems will only be stopped when individual oil and gas operators become financially responsible for plugging the wells they operate as provided by current law.

Although this bill does not stop the problem with the addition of the Governor's amendment, the bill does start to address the issue. Therefore, the Kansas Petroleum Council can reluctantly support this bill as written with the amendment by the Governor as written.

There have been and will continue to be a number of suggestions for amendments to this bill. Any amendments beyond the amendment offered by the Governor would require the Kansas Petroleum Council to reconsider its position on this proposed legislation.

Thank you.